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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,205	02/13/2006	Leo Gustaaf Marien	NL031004US1	6175

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EXAMINER

RALEIGH, DONALD L

ART UNIT	PAPER NUMBER
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2879

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/568,205	Applicant(s) MARIEN ET AL.	
	Examiner DONALD L. RALEIGH	Art Unit 2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date: _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
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DETAILED ACTION

Response to Amendment

The Amendment, filed on June 16, 2009 has been entered and acknowledged by the Examiner.

Cancellation of **claim 9** has been entered.

Claims 1-6 are pending in the instant application.

Drawings

The drawings were objected to under 37 CFR 1.83(a). With applicant's amendment of **Claim 1** to remove the limitation where "d1 \neq d2 ", the importance of showing a variation in thickness is negated. Therefore, the drawing objections have been withdrawn.

Claim Rejections - 35 USC § 112

Applicant's amendment of **Claim 1** has removed the basis for the 112 rejection, therefore the rejection of **Claim 1** and dependent **Claims 2-6**, under 35 U.S.C. 112, has been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Regarding Claim 1, Gibson discloses, in Figure 6 (Above), a high-pressure discharge lamp (title) comprising: an outer envelope (C) in which a discharge vessel (50) is arranged around a longitudinal axis, the discharge vessel (50) enclosing, in a

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gastight manner (Column 7, line 10), a discharge space (the inside of 50, shown in figure 5) provided with an ionizable filling (the sodium halide), the discharge vessel (50) having a first and a second mutually opposed neck-shaped portion (A and B) through which a first and a second current-supply conductor respectively, extend (shown terminating on the electrodes in figure 5), the outer envelope (C) having a bulb-shaped portion (see Figure 6) adjacent the discharge space, the bulb-shaped portion (of C) having a wall thickness d_1 , the remainder of the outer envelope (C) having a wall thickness d_2 , wherein the high-pressure discharge lamp does not comprise a shield for containing a burst of the discharge vessel(figure 6 has no containment shield).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibson(346) in view of Van der Leeuw et al (US Patent No. 5,532,543).

Regarding Claim 2, Gibson fails to exemplify the high-pressure discharge lamp wherein a ratio of d_1 and d_2 is in a range of: $0.4 \leq d_1/d_2 \leq 0.8$.

Van der Leeuw teaches the high-pressure discharge lamp wherein a ratio of d_1 and d_2 is in a range of: $0.4 \leq d_1/d_2 \leq 0.8$.

Van der Leeuw discloses on page 7, lines 1-3 that the surface thickness of the bulb varies (in the same bulb) from 0.6 to 1mm. It is obvious that the bulb would be thickest in the base portion and thinnest in the bulb portion where the envelope has been extended to form the bulb. Therefore, it would be obvious to choose 1mm for the base region and 0.6 mm for the bulb region which would satisfy the above equation (0.6).

Furthermore, Van der Leeuw teaches that this is a commercially available bulb with this variation. Although, the bulb of Gibson contains no containment shield, it would be obvious that during the normal fabrication of the bulb, one would expect the central (bulb) portion of the lamp to be thinner than the base because the bulb represents extended material . And since the bulb of Van der Leeuw is commercially available, it would be obvious to combine the bulb of Van der Leeuw with the discharge lamp of Gibson .

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the glass bulb with thicknesses, as taught by Van der Leeuw in the lamp of Gibson, because the bulb of van der Leeuw is commercially available and because the normal fabrication process of that bulb would result in a bulb that is thicker at the base portion than the central portion as claimed.

Regarding Claim 5, Gibson fails to disclose exemplify a high-pressure discharge lamp wherein the discharge vessel comprises a quartz wall.

Van der Leeuw teaches in figure 3, a high-pressure discharge lamp (column 1, line 24) wherein the discharge vessel (11) comprises a quartz wall (Column 5, line 20).

Van der Leeuw teaches the claimed invention except for why quartz glass is used.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use quartz glass in the discharge vessel of Gibson because quartz glass is transparent and since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibson(346) in view of Van Gennip et al (US Patent No. 5,594,295).

Regarding Claim 3, Gibson fails to exemplify a high-pressure discharge lamp wherein the outer envelope comprises a hard glass, soft glass or quartz glass.

Van Gennip teaches a high-pressure discharge lamp wherein the outer envelope comprises a quartz glass (Column 3, line 49).

Van Gennip teaches the claimed invention except for why quartz glass is used. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use quartz glass in the lamp of Gibson because Gibson uses glass and quartz glass is a type of glass. Furthermore, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Regarding Claim 4, Gibson fails to exemplify a high-pressure discharge lamp with a bulb shaped outer envelope but fails to disclose wherein the bulb-shaped portion of the outer envelope is formed in a mold.

The claim limitation of " is formed in a mold " is interpreted as product by process claim limitation. Even though product by process claims are limited by and defined by the process, determination of patentability is based on the product itself. Patentability of a claim to a product does not rest merely on the difference in the method by which the product is made (MPEP 2113).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gibson (346).

Regarding Claim 6, Gibson discloses in Figure 6, a high-pressure discharge lamp comprising: an outer envelope wherein the ratio of the distance d_e between the electrodes to the height h_{dl} of the high- pressure discharge lamp measured along the longitudinal axis lies in a range of: $0.02 \leq d_e/h_{dl} \leq 0.2$.

Applicant discloses in the specification (page 4, lines 8-13) that these provide " a lamp highly suitable for use in compact lighting applications". Thus the satisfaction of the claimed equation simply involves the determination of the size of the lamp.

Gibson discloses the claimed invention except for the determination of the size required to satisfy the equation $0.02 \leq d_e/h_{dl} \leq 0.2$, (make the device compact).

It would have been an obvious matter of design choice to provide a lamp with dimensions that satisfy the equation $0.02 \leq d_e/h_{dl} \leq 0.2$, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

Response to Arguments

Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection. The addition of the limitation that the lamp does not comprise a containment shield raises new issues for consideration.

Conclusion

Applicant's amendment of June 16, 2009 has necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONALD L. RALEIGH whose telephone number is (571)270-3407. The examiner can normally be reached on Monday-Friday 7:30AM to 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 571-272-2457. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald L Raleigh/
Examiner, Art Unit 2879

/Peter J Macchiarolo/
Primary Examiner, Art Unit 2879